

MONTANA LEGISLATIVE HISTORY

Chapter 27 1997

Bill H 73 S _____ Original bill & history ✓c

H. Committee on Natural Res.

Hearing Date(s) 1-17 ✓c

_____c

_____c

_____c

Date Out _____c

S. Committee on Natural Res.

Hearing Date(s) 1-29 ✓c

_____c

_____c

_____c

Did this bill originate in an interim committee? _____Yes _____No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

3/05	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/09	SIGNED BY SPEAKER		
3/10	SIGNED BY PRESIDENT		
3/11	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 50		
	EFFECTIVE DATE: 03/13/97		

HB 72 INTRODUCED BY QUILICI, ET AL. LC0303 DRAFTER: HEFFELFINGER

OFFICIALLY DESIGNATING THE KOREAN VETERANS' MEMORIAL IN STODDEN PARK, BUTTE, MONTANA, AS A STATE KOREAN VETERANS' MEMORIAL

12/20	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO STATE ADMINISTRATION		
1/14	HEARING		
1/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/18	2ND READING PASSED	100	0
1/20	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
1/21	FIRST READING		
1/21	REFERRED TO STATE ADMINISTRATION		
1/29	HEARING		
1/30	COMMITTEE REPORT—BILL CONCURRED		
2/05	2ND READING CONCURRED AS AMENDED	50	0
2/06	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	99	0
4/11	3RD READING CONCURRED AS AMENDED	94	0
4/15	SIGNED BY SPEAKER		
4/15	SIGNED BY PRESIDENT		
4/17	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 319		
	EFFECTIVE DATE: 10/01/97		

HB 73 INTRODUCED BY MOOD LC0317 DRAFTER: COLHOUN

TRANSFER RULEMAKING AUTHORITY FROM THE STATE BOARD OF LAND COMMISSIONERS TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ENSURE THAT RULEMAKING AUTHORITY FOR FIRE PROTECTION, PROTECTION OF FOREST RESOURCES, FIRE PROTECTION SERVICES, AND CONTROL OF TIMBER AND DEBRIS IS CONSISTENT WITH RULEMAKING AUTHORITY IN THE DEPARTMENT'S OTHER FORESTRY PROGRAMS

BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

12/20	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO NATURAL RESOURCES		
1/17	HEARING		
1/20	COMMITTEE REPORT—BILL PASSED		
1/21	2ND READING PASSED	97	1
1/22	3RD READING PASSED	97	1
	TRANSMITTED TO SENATE		
1/23	FIRST READING		
1/23	REFERRED TO NATURAL RESOURCES		

1/29	HEARING		
2/01	COMMITTEE REPORT—BILL CONCURRED		
2/13	2ND READING CONCURRED	50	0
2/14	3RD READING CONCURRED	49	1
	RETURNED TO HOUSE		
2/18	SIGNED BY SPEAKER		
2/19	SIGNED BY PRESIDENT		
2/20	TRANSMITTED TO GOVERNOR		
2/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 27		
	EFFECTIVE DATE: 02/21/97		

HB 74 INTRODUCED BY MASOLO

LC0318 DRAFTER: HEFFELFINGER

REVISE STATE TRAVEL REIMBURSEMENT PROVISIONS AFFECTING
LODGING, MEALS, AND MILEAGE

BY REQUEST OF DEPARTMENT OF ADMINISTRATION

12/20	INTRODUCED		
12/26	FISCAL NOTE REQUESTED		
1/06	FIRST READING		
1/06	REFERRED TO STATE ADMINISTRATION		
1/15	FISCAL NOTE RECEIVED		
1/15	FISCAL NOTE PRINTED		
1/23	HEARING		
1/30	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/11	REVISED FISCAL NOTE REQUESTED		
2/15	2ND READING PASSED	63	36
2/17	REVISED FISCAL NOTE RECEIVED		
2/18	3RD READING PASSED	66	34
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO STATE ADMINISTRATION		
2/21	REVISED FISCAL NOTE PRINTED		
3/05	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/12	REFERRED TO FINANCE & CLAIMS		
3/17	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/21	2ND READING CONCURRED	35	14
3/22	3RD READING CONCURRED	39	10
	RETURNED TO HOUSE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS CONCURRED	76	23
4/11	3RD READING CONCURRED AS AMENDED	70	27
4/20	SIGNED BY SPEAKER		
4/25	SIGNED BY PRESIDENT		
4/25	TRANSMITTED TO GOVERNOR		
4/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 439		
	EFFECTIVE DATE: 07/01/97		

HB 75 INTRODUCED BY HAGENER, ET AL.

LC0347 DRAFTER: KURTZ

EXPAND THE MEANS OF PROVIDING ELECTRONIC INFORMATION TO THE
PUBLIC

BY REQUEST OF DEPARTMENT OF ADMINISTRATION

12/20	INTRODUCED
1/06	FIRST READING
1/06	REFERRED TO STATE ADMINISTRATION
1/13	HEARING

HOUSE BILL NO. 73

INTRODUCED BY MOOD

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING RULEMAKING AUTHORITY FROM THE STATE BOARD OF LAND COMMISSIONERS TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ENSURE THAT RULEMAKING AUTHORITY FOR FIRE PROTECTION, PROTECTION OF FOREST RESOURCES, FIRE PROTECTION SERVICES, AND CONTROL OF TIMBER AND DEBRIS IS CONSISTENT WITH RULEMAKING AUTHORITY IN THE DEPARTMENT'S OTHER FORESTRY PROGRAMS; CLARIFYING THE RESPONSIBILITIES OF THE DEPARTMENT CONCERNING THE PROTECTION OF FOREST RESOURCES, THE PROVISIONS FOR FIRE PROTECTION SERVICES, AND THE CONTROL OF TIMBER SLASH AND DEBRIS; AMENDING SECTIONS 76-11-101, 76-13-102, 76-13-103, 76-13-109, 76-13-112, 76-13-201, 76-13-204, 76-13-205, 76-13-403, 76-13-408, AND 76-13-414, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] transfers rulemaking authority from the state board of land commissioners to the department of natural resources and conservation. It is the intent of [section 4] to transfer the administration of protection of natural resources from fire, protection of forest resources, fire protection services, and control of timber slash and debris from the state board of land commissioners to the department of natural resources and conservation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-11-101, MCA, is amended to read:

"76-11-101. Protection of natural resources from fire. The department of natural resources and conservation, ~~under rules adopted by the state board of land commissioners,~~ shall adopt rules to protect the natural resources of the state, especially the natural resources owned by the state, from destruction by fire and for that purpose, in emergencies, may employ personnel and incur other expenses when necessary."

INTRODUCED BILL

1 **Section 2.** Section 76-13-102, MCA, is amended to read:

2 **"76-13-102. Definitions.** Unless the context requires otherwise, in part 2 and this part, the
3 following definitions apply:

4 (1) "Board" means the board of land commissioners provided for in Article X, section 4, of the
5 Montana constitution.

6 (2) "Conservation" means the protection and wise use of forest, forest range, forest water, and
7 forest soil resources in keeping with the common welfare of the people of this state.

8 (3) "Department" means the department of natural resources and conservation provided for in Title
9 2, chapter 15, part 33.

10 (4) "Forest fire" means a fire burning uncontrolled on forest lands.

11 (5) "Forest fire protection" means the work of prevention, detection, and suppression of forest fires
12 and includes training required to perform those functions.

13 (6) "Forest fire protection district" means a definite forest land area, the boundaries of which are
14 fixed and in which forest fire protection is provided through the medium of an agency recognized by the
15 board department.

16 (7) "Forest fire season" means the period of each year beginning May 1 and ending September 30,
17 inclusive.

18 (8) "Forest land" means land that has enough timber, standing or down, slash, or brush to
19 constitute in the judgment of the department a fire menace to life or property. Grassland and agricultural
20 areas are included when those areas are intermingled with or contiguous to and no further than one-half
21 mile from areas of forest land.

22 (9) (a) "Forest practices" means the harvesting of trees, road construction or reconstruction
23 associated with harvesting and accessing trees, site preparation for regeneration of a timber stand,
24 reforestation, and the management of logging slash.

25 (b) The term does not include activities for the purpose of:

26 (i) the operation of a nursery or Christmas tree farm;

27 (ii) the harvest of Christmas trees;

28 (iii) the harvest of firewood; or

29 (iv) the cutting of trees for personal use by an owner or operator.

30 (10) "Lands" for conservation purposes means all forest lands within this state that are officially

classified by the department as forest lands under 76-13-107.

(11) "Operator" means a person responsible for conducting forest practices. An operator may be the owner, the owner's agent, or a person who, through contractual agreement with the landowner, is obligated to or entitled to conduct forest practices or to carry out a timber sale.

(12) "Owner" means the person, firm, association, or corporation having the actual, beneficial ownership of forest land or timber other than an easement, right-of-way, or mineral reservation.

(13) "Person" means an individual, corporation, partnership, or association of any kind.

(14) "Recognized agency" means an agency organized for the purpose of providing forest fire protection and recognized by the ~~board~~ department as giving adequate fire protection to forest lands in accordance with rules adopted by the ~~board~~ department.

(15) "Timber sale" means a series of forest practices designed to access, harvest, and regenerate trees on a defined land area."

Section 3. Section 76-13-103, MCA, is amended to read:

"76-13-103. **Applicability.** This part and part 2 apply to all forest lands within this state ~~which~~ that are officially classified by the ~~board~~ department as forest lands according to the definition of forest land in 76-13-102."

Section 4. Section 76-13-109, MCA, is amended to read:

"76-13-109. **Rules.** The ~~board~~ department may adopt and enforce ~~through the department~~ reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of this part and part 2."

Section 5. Section 76-13-112, MCA, is amended to read:

"76-13-112. **Penalty for violation.** Unless otherwise provided by this part or part 2, a person who violates this part or part 2 or any rule adopted ~~by the board or department~~ pursuant to this part or part 2 is guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or imprisonment in a county jail for not more than 6 months or both."

Section 6. Section 76-13-201, MCA, is amended to read:

1 **"76-13-201. Duty of owner to protect against fire.** (1) An owner of forest land classified as such
2 by the department shall protect against the starting or existence and suppress the spread of fire on that
3 land. This protection and suppression ~~shall~~ must be in conformity with reasonable rules and standards for
4 adequate fire protection adopted by the ~~board~~ department.

5 (2) If the owner does not provide for the protection and suppression, the department may provide
6 it at a cost to the landowner of not more than \$30 for each landowner in the protection district and of not
7 more than an additional 20 cents per acre per year for each acre in excess of 20 acres owned by each
8 landowner in each protection district, as necessary to yield the amount of money provided for in
9 76-13-207. The owner of the land shall pay to the county treasurer of the county in which the land is
10 situated the charge for the same approved by the department in accordance with this part and part 1.

11 (3) No other charges may be assessed those landowners participating except in cases of proven
12 negligence on the part of the landowner or ~~his~~ the landowner's agent."
13

14 **Section 7.** Section 76-13-204, MCA, is amended to read:

15 **"76-13-204. Creation, annexation of land into, and dissolution of forest fire protection districts.**

16 (1) In accordance with the provisions of subsections (2) and (3), the ~~board~~ department may create, annex
17 land to, or dissolve forest fire protection districts.

18 (2) Before a district is created, land is annexed into a district, or a district is dissolved, the ~~board~~
19 department shall hold a hearing in any county in which land affected by the proposed change is located.

20 (a) The department shall give notice at least 20 days in advance of the hearing to all property
21 owners to be affected by the proposed change. Service of the notice may be made by certified mail to each
22 affected property owner or by publication of the notice in a newspaper published or generally circulated
23 in the county in which the hearing is to be held.

24 (b) The department shall ~~report to the board~~ consider the arguments made for and against the
25 proposed change ~~and shall make a recommendation to the board~~ in making a determination under this
26 section.

27 (3) (a) A forest fire protection district may not be created or dissolved unless approved in writing
28 by a vote of not less than 51% of the owners representing at least 51% of the acreage to be involved in
29 the affected forest fire protection district.

30 (b) Land may not be annexed into a district unless approved by 51% of the owners representing

1 at least 51% of the acreage to be annexed.

2 (4) Land annexed into a district may not be removed from that district unless that district is
3 dissolved."

4
5 **Section 8.** Section 76-13-205, MCA, is amended to read:

6 **"76-13-205. Determination of boundaries of district.** In establishing boundaries of organized forest
7 fire protection districts covering forest lands, the ~~board~~ department may for the purpose of administrative
8 convenience designate recognizable landmarks as boundaries."

9
10 **Section 9.** Section 76-13-403, MCA, is amended to read:

11 **"76-13-403. Supervision by department.** The department, ~~under rules adopted by the board,~~ may
12 adopt and enforce rules to supervise and inspect the fire hazard reduction or management of all fire hazards
13 created by forest products harvesting, timber stand improvement, and right-of-way clearing on private land
14 in the state."

15
16 **Section 10.** Section 76-13-408, MCA, is amended to read:

17 **"76-13-408. Fire hazard reduction agreement and bond.** (1) Before cutting any forest product,
18 constructing or reconstructing any road in contemplation of cutting any forest product, or conducting timber
19 stand improvement, such as but not limited to thinning, weeding, or pruning, upon private lands within the
20 state, the person conducting the work shall provide for the reduction or management of the fire hazard to
21 be created by entering into a fire hazard reduction agreement or a master fire hazard reduction agreement
22 with the department, providing for the full and faithful compliance with all requirements under this part and
23 the faithful reduction or management of the fire hazard in the manner prescribed by law and by rules
24 adopted ~~by the board~~ under this part.

25 (2) Either the person conducting the work or the purchaser, as provided in 76-13-409(2), shall post
26 a bond to the state in a form and for an amount as may be prescribed by the department, but the amount
27 may not exceed \$6 for each 1,000 board feet (log scale) or the equivalent if forest products other than logs
28 are cut.

29 (3) Either the person conducting the work or the purchaser, as provided in 76-13-409(2), shall pay
30 15 cents for each 1,000 board feet (log scale) or equivalent measure if forest products other than logs are

1 cut. The assessment may not exceed \$20,000 a year. The full amount of this money must be deposited
2 in the forestry extension service account provided for in 76-13-415.

3 (4) The agreement must provide that:

4 (a) all fire hazard reduction or management work comprising nonburning methods and preparations
5 for burning must be completed within 18 months of commencement of cutting in the area covered by the
6 agreement; and

7 (b) all burning work must be completed as specified in the agreement and in compliance with rules
8 adopted ~~by the board~~ under this part.

9 (5) The bond must be released upon the issuance of the certificate of clearance."
10

11 **Section 11.** Section 76-13-414, MCA, is amended to read:

12 **"76-13-414. Fees.** (1) In addition to any bond, the department shall charge the contractor fees
13 for administration, inspections, and enforcement work conducted in the exercise of its duties under this
14 part. The fees must be deposited in the state special revenue fund to the credit of the department.

15 (2) (a) The fee for a fire hazard reduction agreement is \$25 and must be collected by the
16 department upon issuance of the agreement.

17 (b) In addition, a fee of 60 cents for each 1,000 board feet (log scale) must be charged or an
18 equivalent fee must be charged if products other than logs are cut. This fee must be withheld by the
19 purchaser as provided in 76-13-409(2), except that any fee money withheld for product volumes exceeding
20 500,000 board feet per agreement in a calendar year must be returned to the contractor by the department.

21 (3) (a) The fee for master fire hazard reduction agreements must be equal to 100% of the
22 department's actual costs incurred in the administration, inspection, and enforcement of each agreement,
23 and the department shall bill the contractor annually to collect ~~such~~ the fees.

24 (b) In addition, each contractor with a master fire hazard reduction agreement shall pay to the
25 department 15 cents for each 1,000 board feet (log scale) or equivalent measure if forest products other
26 than logs are cut. The assessment may not exceed \$20,000 a year for each master fire hazard attachment.
27 The full amount of this money must be deposited in the forestry extension service account provided for in
28 76-13-415.

29 (c) The fee required under subsection (3)(b) must be paid annually in conjunction with the fee paid
30 under subsection (3)(a). The ~~board~~ department may, in its discretion, conduct an audit to determine the

volume of forest products harvested by a contractor. If the ~~board~~ department conducts an audit, the contractor shall cooperate and make available to the ~~board~~ department all requested records, inventories, and other information relevant to the audit."

NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

-END-

COMMITTEE--HOUSE NATURAL RESOURCES

CHAIRMAN--DICK KNOX

SECRETARY-STEPHANIE BRAUN/430

NORMAL SCHEDULE => SITE: ROOM 437

DAYS: M,W,F

TIME: 3:00 P.M.

- BILL NO-- REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

HB0031	HEAVY RUNNER, GEORGE	EXTEND RENEWABLE RESOURCE GRANT PROGRAM ELIGIBILITY TO TRIBAL GOVERNMENTS					
	1/06	1/08	PASS AS AMENDED	2/3	VOTE: 15-3		2/04
HB0050	COBB, JOHN	PROVIDE FOR REGULATION OF NATURAL GAS TRANSPORTER AS COMMON CARRIER					
	1/11	1/31	TABLED ON	02/19	VOTE: 13-5		
HB0054	BOHLINGER, JOHN	SETTING UNIFORM STATE AMBIENT SULFUR DIOXIDE STANDARDS					
	1/06	1/13	TABLED ON	01/20	VOTE:12-5		
HB0059	JOHNSON, ROYAL	SETTING UNIFORM STATE AMBIENT SULFUR DIOXIDE STANDARDS					
	1/06	1/13	DO PASS	1/20	VOTE: 16-1		1/21
HB0073	MOOD, DOUG	TRANSFER RULEMAKING AUTHORITY					
	1/06	1/17	DO PASS	1/17	VOTE: 18-0		1/20
HB0081	DEVANEY, CHARLES	REVISE OIL AND GAS LEASING AND TAXATION ACCOUNTABILITY					
	1/06	1/10	DO PASS	1/13	VOTE: 18-0		1/14
HB0118	GRADY, ED	CLARIFY REMEDIATION CONTRACT PROCEDURES					
	1/06	1/10	PASS AS AMENDED	1/13	VOTE: 18-0		1/14
HB0120	ROSE, JOHN	MUDDY CREEK PERMIT AUTHORIZATION					
	1/06	1/17	PASS AS AMENDED	1/22	VOTE: 18-0		1/23
HB0132	KNOX, DICK	REQUIREMENTS FOR COMPLIANCE AND ENFORCEMENT REPORTING					
	1/06	1/17	DO PASS	1/17	VOTE: 18-0		1/20
HB0152	GRADY, ED	RECODIFY UNDERGROUND STORAGE TANK LAWS					
	1/06	1/15	PASS AS AMENDED	1/22	VOTE: 18-0		1/23
HB0153	GRADY, ED	ADMINISTRATIVE APPEAL FOR DISCHARGE PERMITS					

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on January 17, 1997, at
3:00 p.m., in Room 437

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Hal Harper, Vice Chairman (Minority) (D)
Rep. Haley Beaudry (R)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. Doug Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney
Rep. Trudi Schmidt (D)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: none

Members Absent: none

Staff Present: Kathleen Williams, Legislative Services
Stephanie Braun, Committee Secretary

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 132; HB 120; HB 73
Executive Action: HB 153 (tabled), HB 132 (18-0)
HB 73 (18-0)

HEARING ON HB 132

Sponsor: Rep. Dick Knox, H.D. #93

Opening Statement by Sponsor: Rep. Knox, H.D. 93 opened

Alan Rowal, Coordinator for Muddy Creek Project

{Tape: 1; Side: b; Approx. Time Count: 7.0; Comments: none.}

Mike Murphy, MT Water Resources Association

{Tape: 1; Side: b; Approx. Time Count: 8.2; Comments: none.}

Opponents: none

Questions From Committee Members and Responses:

{Tape: 1; Side: b; Approx. Time Count: 10.4; Comments: none.}

Closing by Sponsor: Rep. Rose

{Tape: 1; Side: b; Approx. Time Count: 26.4; Comments: none.}

Rep. Knox to Rep. Rose, if there are other "Muddy Creeks", please provide our Staffer, Ms. Kathleen Williams with this information so she can prepare an amendment to ensure the bill applies only to the Muddy Creek that is a tributary to the Sun River.

{Tape: 1; Side: b; Approx. Time Count: 27.0; Comments: none.}

HEARING ON HB 73

Sponsor: Rep. Doug Mood, H.D. 58

Opening Statement by Sponsor: Rep. Mood opened on HB 73

{Tape: 1; Side: b; Approx. Time Count: 26.0; Comments: none.}

Proponents:

Bud Clinch, Director of Department of Natural Resources and Conservation submitted Exhibit #3

{Tape: 2; Side: a; Approx. Time Count: 0.1; Comments: none.}

Cary Hegreberg, Wood Products Association

{Tape: 2; Side: b; Approx. Time Count: 2.4; Comments: none.}

Opponents: none

Informational Testimony: none

Questions From Committee Members and Responses:

{Tape: 2; Side: a; Approx. Time Count: 4.1; Comments: none.}

Closing by Sponsor: Rep. Mood closing comment

{Tape: 2; Side: a; Approx. Time Count: 7.4; Comments: none.}

EXECUTIVE ACTION ON HB 153

Motion: Rep. Knox motion to Table Bill

{Tape: 2; Side: a; Approx. Time Count: 8.0; Comments: Rep. Knox would like to Table this Bill until we receive clarification from EPA as to whether this Bill is necessary to maintain primacy.}

Discussion: Rep. Tash, questioned what it would take to get this Bill back into Committee; Rep. Knox replied, it would just take a majority vote to bring it back into Committee.

{Tape: 2; Side: a; Approx. Time Count: 11.1; Comments: none.}

Motion/Vote: Motion to Table the Bill carried unanimously, 18-0,
Bill Tabled

EXECUTIVE ACTION ON HB 132

Motion: DO PASS

Discussion: none

Motion/Vote: all in favor, DO PASS Motion, 18-0

{Tape: 2; Side: a; Approx. Time Count: 11.9; Comments: none.}

EXECUTIVE ACTION ON HB 73

Motion: DO PASS

Discussion: none

Motion/Vote: all in favor, DO PASS, 18-0

{Tape: 2; Side: a; Approx. Time Count: 12.7; Comments: none.}

COMMITTEE--SENATE NATURAL RESOURCES

CHAIRMAN--LORENTS GROSFIELD

SECRETARY--GAYLE HAYLEY/404

NORMAL SCHEDULE => SITE: ROOM 405

DAYS: M,W,F

TIME: 3:00 P.M.

- BILL NO--		REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	-----	REREFERRED	----	DATE READ
HB0031	HEAVY RUNNER, GEORGE			EXTEND RENEWABLE RESOURCE GRANT PROGRAM ELIGIBILITY TO TRIBAL GOVERNMENTS					
	2/08	3/05		CONCUR AS AMENDED	VOTE:				3/14
HB0059	JOHNSON, ROYAL			SETTING UNIFORM STATE AMBIENT SULFUR DIOXIDE STANDARDS					
	1/29	2/05		CONCUR	VOTE:				2/11
HB0071	MOOD, DOUG			INCREASE EMERGENCY LOAN CAP FROM THE RENEWABLE RESOURCE GRANT & LOAN PROGRAM					
	2/03	2/10		CONCUR	VOTE:				2/12
HB0073	MOOD, DOUG			TRANSFER RULEMAKING AUTHORITY					
	1/23	1/29		CONCUR	VOTE:				2/01
HB0081	DEVANEY, CHARLES			REVISE OIL AND GAS LEASING AND TAXATION ACCOUNTABILITY					
	1/17	1/22		CONCUR	VOTE:				2/01
HB0118	GRADY, ED			CLARIFY REMEDIATION CONTRACT PROCEDURES					
	1/20	1/24		CONCUR AS AMENDED	VOTE:				1/28
HB0120	ROSE, JOHN			MUDDY CREEK PERMIT AUTHORIZATION					
	1/28	2/05		CONCUR AS AMENDED	VOTE:				2/11
HB0132	KNOX, DICK			REQUIREMENTS FOR COMPLIANCE AND ENFORCEMENT REPORTING					
	1/23	1/29		CONCUR	VOTE:				2/01
HB0152	GRADY, ED			RECODIFY UNDERGROUND STORAGE TANK LAWS					
	1/29	2/05		CONCUR	VOTE:				2/11
HB0154	TAYLOR, LILA			GENERALLY REVISE STRIP MINE ACT					
	2/03	3/14		CONCUR	VOTE:				3/19
HB0156	GRADY, ED			2-YEAR INCREASE IN AMOUNT ALLOWED FOR RESOURCE DEVELOPMENT ON SCHOOL LANDS					
	2/21	3/07		CONCUR	VOTE:				3/25

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 29, 1997, at 1:00 P.M., in Room 405

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. William S. Crismore, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Mack Cole (R)
Sen. Thomas F. Keating (R)
Sen. Dale Mahlum (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Mike Taylor (R)

Members Excused: Sen. Fred R. Van Valkenburg

Members Absent: None

Staff Present: Larry Mitchell, Legislative Services Division
Gayle Hayley, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 73, HB 132;
Posted January 23, 1997
Executive Action: HB 81, HB 73, HB 132

HEARING ON HB 73

Sponsor: REP. DOUG MOOD, HD 58, Seeley Lake

Proponents: Bud Clinch, Director, Dept. of Natural Resources & Conservation.

Opponents: None

Opening Statement by Sponsor

REP. DOUG MOOD, HD 58, Seeley Lake, stated that the Forestry Division of the Dept. of Natural Resources and Conservation (DNRC) asked him to sponsor this bill. After the reorganization

of DNRC, the Forestry Division continued to have responsibilities of promoting conservation practices as well as enforcing the state's forest practice standards. In addition, the Division has the responsibility of protecting Montana's rangeland and forestland from uncontrolled fire. However, after the reorganization, the Forestry Division found that the rule making authority for fire protection in the timber slash programs had seemingly been left in the hands of the State Board of Land Commissioners. The Land Board is directly responsible for the oversight of the Trust Land Division of the DNRC, but they are no longer responsible of the oversight of the Forestry Division. The text of HB 73 strikes all references to the State Board of Land Commissioners, "the Board," and it inserts references to the Department of Natural Resources, "the Department." He believes these changes correct an oversight of the last session and they would allow the DNRC to operate more efficiently.

Proponents' Testimony:

Bud Clinch, Director of Dept. of Natural Resources and Conservation, (EXHIBIT 1) presented a organizational chart of the new DNRC structure and the previous state land hierarchy. He reiterated that this bill is basically a housekeeping bill to rectify some oversights that failed to occur last session in SB 234. Previously, the State Board of Land Commissioners served as the director, and had rule making authority over all the various divisions. The reorganization focused the activities that fell under the Land Board's jurisdiction into a single division, the Trust Land Management Division. Now, internal reorganization moved the land management activities that were in the old forestry division into the forest management bureau. Therefore, all of the state land activities that are constitutionally mandated to come before the Board of Land Commissioners now totally reside in the Trust Land Management Division. In the last bill, SB 234, the relationship of the State Board to the other divisions were missed, therefore, this bill rectifies the problem of treating rule making authority among all of the divisions, and clearly focus the Land Board's authority on strictly those things that are related to Trust Land Management activities. He closes in requesting a do pass for HB 73.

Opponents' Testimony: None

Closing by Sponsor:

REP. MOOD closes with saying that this bill is obviously a housekeeping bill that makes sense with the reorganization.

{Tape: 1; Side: A; Approx. Time Count: 1:10; Comments: .}

HEARING ON HB 132

Sponsor: REP. DICK KNOX, HD 93, Winifred.

it wide open and clear cut; 2) tracking of enforcement and compliance - tools for both legislatures and private citizens; 3) means to achieving some degree of comfort on both sides of these constantly polarized natural resource issues.

REP. KNOX strongly urged a positive vote for this bill.

VICE CHAIRMAN CRISMORE closed the hearing on HB 132.

EXECUTIVE ACTION ON HB 81

Motion: SEN. KEATING MOVED HB 81 BE CONCURRED IN

Discussion: SEN. KEATING asked Mr. Clinch about line 23, " Upon failure to make the rental payment, the lease terminates unless there is a well currently being drilled, a producing well, or a shut-in well approved by the department on the lease." SEN. KEATING stated that a completed well is not mentioned, so there is a gap between drilling and being a producing well. He asked about putting in the phrase, "a well currently being drilled or completed". He asked if a well currently being drilled is considered drilled and completed all in one. Mr. Clinch replied that was correct. He continued to say the interpretation is that once the activity of drilling has commenced that fulfills the requirement, the criteria. SEN KEATING then asked if the language here is sufficient and if a well is commenced, can it be completed and become a producing well if the rent is not paid. Mr. Clinch answered that this was correct. The lease is not terminated if the rentals are not paid.

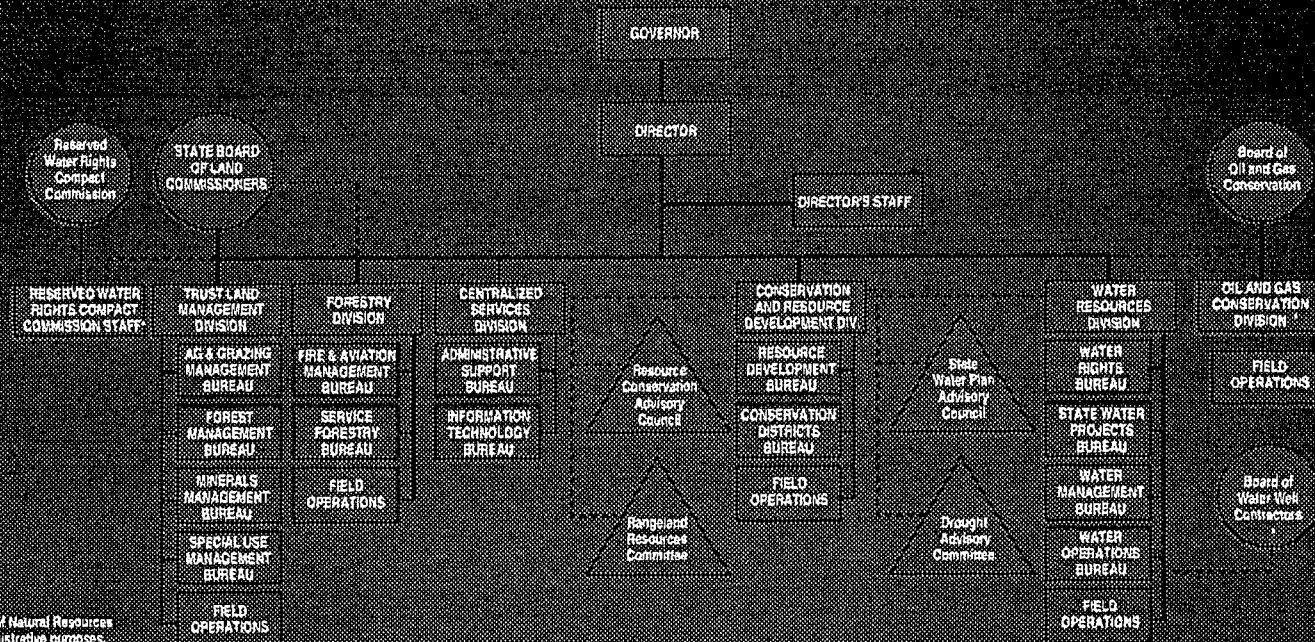
Vote: MOTION THAT HB 81 BE CONCURRED IN
CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 73

Motion/Vote: SEN. KEATING MOVED THAT HB73 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB132

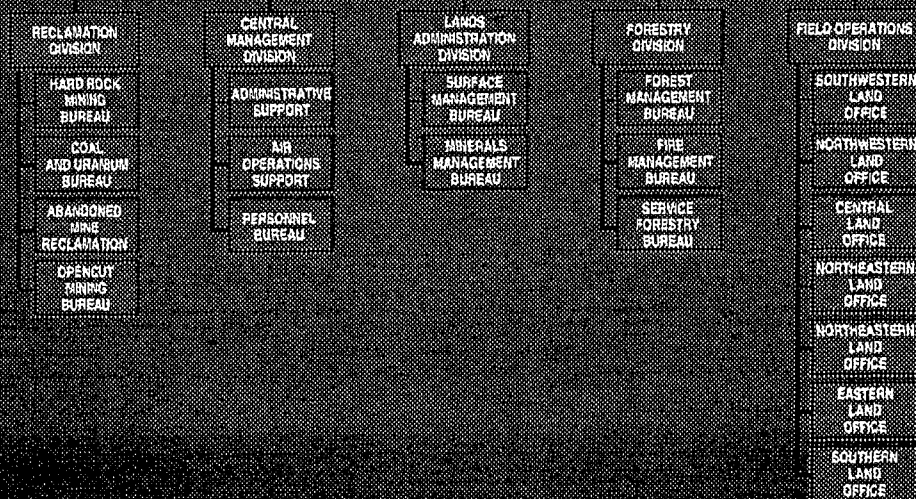
MOTION/VOTE: SEN. BROOKE MOVED THAT HB132 BE CONCURRED IN.
MOTION CARRIED UNANIMOUSLY.



* Attached to the Department of Natural Resources and Conservation for administrative purposes.

STATE BOARD OF LAND COMMISSIONERS
GOVERNOR, AUDITOR, ATTORNEY GENERAL,
SUPERINTENDENT OF PUBLIC INSTRUCTION,
SECRETARY OF STATE

DEPARTMENT OF STATE LANDS
Commissioner



HOUSE BILL NO. 73

INTRODUCED BY MOOD

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING RULEMAKING AUTHORITY FROM THE STATE BOARD OF LAND COMMISSIONERS TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ENSURE THAT RULEMAKING AUTHORITY FOR FIRE PROTECTION, PROTECTION OF FOREST RESOURCES, FIRE PROTECTION SERVICES, AND CONTROL OF TIMBER AND DEBRIS IS CONSISTENT WITH RULEMAKING AUTHORITY IN THE DEPARTMENT'S OTHER FORESTRY PROGRAMS; CLARIFYING THE RESPONSIBILITIES OF THE DEPARTMENT CONCERNING THE PROTECTION OF FOREST RESOURCES, THE PROVISIONS FOR FIRE PROTECTION SERVICES, AND THE CONTROL OF TIMBER SLASH AND DEBRIS; AMENDING SECTIONS 76-11-101, 76-13-102, 76-13-103, 76-13-109, 76-13-112, 76-13-201, 76-13-204, 76-13-205, 76-13-403, 76-13-408, AND 76-13-414, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 4] transfers rulemaking authority from the state board of land commissioners to the department of natural resources and conservation. It is the intent of [section 4] to transfer the administration of protection of natural resources from fire, protection of forest resources, fire protection services, and control of timber slash and debris from the state board of land commissioners to the department of natural resources and conservation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-11-101, MCA, is amended to read:

"76-11-101. Protection of natural resources from fire. The department of natural resources and conservation, ~~under rules adopted by the state board of land commissioners,~~ shall adopt rules to protect the natural resources of the state, especially the natural resources owned by the state, from destruction by fire and for that purpose, in emergencies, may employ personnel and incur other expenses when necessary."

1 **Section 2.** Section 76-13-102, MCA, is amended to read:

2 **"76-13-102. Definitions.** Unless the context requires otherwise, in part 2 and this part, the
3 following definitions apply:

4 (1) "Board" means the board of land commissioners provided for in Article X, section 4, of the
5 Montana constitution.

6 (2) "Conservation" means the protection and wise use of forest, forest range, forest water, and
7 forest soil resources in keeping with the common welfare of the people of this state.

8 (3) "Department" means the department of natural resources and conservation provided for in Title
9 2, chapter 15, part 33.

10 (4) "Forest fire" means a fire burning uncontrolled on forest lands.

11 (5) "Forest fire protection" means the work of prevention, detection, and suppression of forest fires
12 and includes training required to perform those functions.

13 (6) "Forest fire protection district" means a definite forest land area, the boundaries of which are
14 fixed and in which forest fire protection is provided through the medium of an agency recognized by the
15 ~~board~~ department.

16 (7) "Forest fire season" means the period of each year beginning May 1 and ending September 30,
17 inclusive.

18 (8) "Forest land" means land that has enough timber, standing or down, slash, or brush to
19 constitute in the judgment of the department a fire menace to life or property. Grassland and agricultural
20 areas are included when those areas are intermingled with or contiguous to and no further than ⁵one-half
21 mile from areas of forest land.

22 (9) (a) "Forest practices" means the harvesting of trees, road construction or reconstruction
23 associated with harvesting and accessing trees, site preparation for regeneration of a timber stand,
24 reforestation, and the management of logging slash.

25 (b) The term does not include activities for the purpose of:

26 (i) the operation of a nursery or Christmas tree farm;

27 (ii) the harvest of Christmas trees;

28 (iii) the harvest of firewood; or

29 (iv) the cutting of trees for personal use by an owner or operator.

30 (10) "Lands" for conservation purposes means all forest lands within this state that are officially

classified by the department as forest lands under 76-13-107.

(11) "Operator" means a person responsible for conducting forest practices. An operator may be the owner, the owner's agent, or a person who, through contractual agreement with the landowner, is obligated to or entitled to conduct forest practices or to carry out a timber sale.

(12) "Owner" means the person, firm, association, or corporation having the actual, beneficial ownership of forest land or timber other than an easement, right-of-way, or mineral reservation.

(13) "Person" means an individual, corporation, partnership, or association of any kind.

(14) "Recognized agency" means an agency organized for the purpose of providing forest fire protection and recognized by the ~~board~~ department as giving adequate fire protection to forest lands in accordance with rules adopted by the ~~board~~ department.

(15) "Timber sale" means a series of forest practices designed to access, harvest, and regenerate trees on a defined land area."

Section 3. Section 76-13-103, MCA, is amended to read:

"76-13-103. **Applicability.** This part and part 2 apply to all forest lands within this state ~~which~~ that are officially classified by the ~~board~~ department as forest lands according to the definition of forest land in 76-13-102."

Section 4. Section 76-13-109, MCA, is amended to read:

"76-13-109. **Rules.** The ~~board~~ department may adopt and enforce ~~through the department~~ reasonable rules for the purpose of enforcing and accomplishing the provisions and purposes of this part and part 2."

Section 5. Section 76-13-112, MCA, is amended to read:

"76-13-112. **Penalty for violation.** Unless otherwise provided by this part or part 2, a person who violates this part or part 2 or any rule adopted ~~by the board or department~~ pursuant to this part or part 2 is guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or imprisonment in a county jail for not more than 6 months or both."

Section 6. Section 76-13-201, MCA, is amended to read:

1 **"76-13-201. Duty of owner to protect against fire.** (1) An owner of forest land classified as such
2 by the department shall protect against the starting or existence and suppress the spread of fire on that
3 land. This protection and suppression ~~shall~~ must be in conformity with reasonable rules and standards for
4 adequate fire protection adopted by the ~~board~~ department.

5 (2) If the owner does not provide for the protection and suppression, the department may provide
6 it at a cost to the landowner of not more than \$30 for each landowner in the protection district and of not
7 more than an additional 20 cents per acre per year for each acre in excess of 20 acres owned by each
8 landowner in each protection district, as necessary to yield the amount of money provided for in
9 76-13-207. The owner of the land shall pay to the county treasurer of the county in which the land is
10 situated the charge for the same approved by the department in accordance with this part and part 1.

11 (3) No other charges may be assessed those landowners participating except in cases of proven
12 negligence on the part of the landowner or ~~his~~ the landowner's agent."

13

14 **Section 7. Section 76-13-204, MCA, is amended to read:**

15 **"76-13-204. Creation, annexation of land into, and dissolution of forest fire protection districts.**

16 (1) In accordance with the provisions of subsections (2) and (3), the ~~board~~ department may create, annex
17 land to, or dissolve forest fire protection districts.

18 (2) Before a district is created, land is annexed into a district, or a district is dissolved, the ~~board~~
19 department shall hold a hearing in any county in which land affected by the proposed change is located.

20 (a) The department shall give notice at least 20 days in advance of the hearing to all property
21 owners to be affected by the proposed change. Service of the notice may be made by certified mail to each
22 affected property owner or by publication of the notice in a newspaper published or generally circulated
23 in the county in which the hearing is to be held.

24 (b) The department shall ~~report to the board~~ consider the arguments made for and against the
25 proposed change ~~and shall make a recommendation to the board~~ in making a determination under this
26 section.

27 (3) (a) A forest fire protection district may not be created or dissolved unless approved in writing
28 by a vote of not less than 51% of the owners representing at least 51% of the acreage to be involved in
29 the affected forest fire protection district.

30 (b) Land may not be annexed into a district unless approved by 51% of the owners representing

1 at least 51% of the acreage to be annexed.

2 (4) Land annexed into a district may not be removed from that district unless that district is
3 dissolved."

4
5 **Section 8.** Section 76-13-205, MCA, is amended to read:

6 **"76-13-205. Determination of boundaries of district.** In establishing boundaries of organized forest
7 fire protection districts covering forest lands, the ~~board~~ department may for the purpose of administrative
8 convenience designate recognizable landmarks as boundaries."

9
10 **Section 9.** Section 76-13-403, MCA, is amended to read:

11 **"76-13-403. Supervision by department.** The department, ~~under rules adopted by the board,~~ may
12 adopt and enforce rules to supervise and inspect the fire hazard reduction or management of all fire hazards
13 created by forest products harvesting, timber stand improvement, and right-of-way clearing on private land
14 in the state."

15
16 **Section 10.** Section 76-13-408, MCA, is amended to read:

17 **"76-13-408. Fire hazard reduction agreement and bond.** (1) Before cutting any forest product,
18 constructing or reconstructing any road in contemplation of cutting any forest product, or conducting timber
19 stand improvement, such as but not limited to thinning, weeding, or pruning, upon private lands within the
20 state, the person conducting the work shall provide for the reduction or management of the fire hazard to
21 be created by entering into a fire hazard reduction agreement or a master fire hazard reduction agreement
22 with the department, providing for the full and faithful compliance with all requirements under this part and
23 the faithful reduction or management of the fire hazard in the manner prescribed by law and by rules
24 adopted ~~by the board~~ under this part.

25 (2) Either the person conducting the work or the purchaser, as provided in 76-13-409(2), shall post
26 a bond to the state in a form and for an amount as may be prescribed by the department, but the amount
27 may not exceed \$6 for each 1,000 board feet (log scale) or the equivalent if forest products other than logs
28 are cut.

29 (3) Either the person conducting the work or the purchaser, as provided in 76-13-409(2), shall pay
30 15 cents for each 1,000 board feet (log scale) or equivalent measure if forest products other than logs are

1 cut. The assessment may not exceed \$20,000 a year. The full amount of this money must be deposited
2 in the forestry extension service account provided for in 76-13-415.

3 (4) The agreement must provide that:

4 (a) all fire hazard reduction or management work comprising nonburning methods and preparations
5 for burning must be completed within 18 months of commencement of cutting in the area covered by the
6 agreement; and

7 (b) all burning work must be completed as specified in the agreement and in compliance with rules
8 adopted ~~by the board~~ under this part.

9 (5) The bond must be released upon the issuance of the certificate of clearance."
10

11 **Section 11.** Section 76-13-414, MCA, is amended to read:

12 **"76-13-414. Fees.** (1) In addition to any bond, the department shall charge the contractor fees
13 for administration, inspections, and enforcement work conducted in the exercise of its duties under this
14 part. The fees must be deposited in the state special revenue fund to the credit of the department.

15 (2) (a) The fee for a fire hazard reduction agreement is \$25 and must be collected by the
16 department upon issuance of the agreement.

17 (b) In addition, a fee of 60 cents for each 1,000 board feet (log scale) must be charged or an
18 equivalent fee must be charged if products other than logs are cut. This fee must be withheld by the
19 purchaser as provided in 76-13-409(2), except that any fee money withheld for product volumes exceeding
20 500,000 board feet per agreement in a calendar year must be returned to the contractor by the department.

21 (3) (a) The fee for master fire hazard reduction agreements must be equal to 100% of the
22 department's actual costs incurred in the administration, inspection, and enforcement of each agreement,
23 and the department shall bill the contractor annually to collect ~~such~~ the fees.

24 (b) In addition, each contractor with a master fire hazard reduction agreement shall pay to the
25 department 15 cents for each 1,000 board feet (log scale) or equivalent measure if forest products other
26 than logs are cut. The assessment may not exceed \$20,000 a year for each master fire hazard attachment.
27 The full amount of this money must be deposited in the forestry extension service account provided for in
28 76-13-415.

29 (c) The fee required under subsection (3)(b) must be paid annually in conjunction with the fee paid
30 under subsection (3)(a). ~~The board~~ department may, in its discretion, conduct an audit to determine the

1 volume of forest products harvested by a contractor. If the ~~board~~ department conducts an audit, the
2 contractor shall cooperate and make available to the ~~board~~ department all requested records, inventories,
3 and other information relevant to the audit."

4
5 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

6 -END-